

# HOUSE BILL REPORT

## EHB 1187

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### As Passed Legislature

**Title:** An act relating to elimination of mandatory minimum sentences for youthful offenders tried as adults.

**Brief Description:** Eliminating mandatory minimum sentences for youthful offenders tried as adults.

**Sponsors:** By Representatives Dickerson, Moeller, Kagi, Roberts, Darneille, Schual-Berke, Chase, Clibborn, McIntire, Upthegrove and Hasegawa.

#### Brief History:

##### Committee Activity:

Juvenile Justice & Family Law: 2/1/05, 2/8/05 [DP].

##### Floor Activity:

Passed House: 3/10/05, 96-0.

Senate Amended.

Passed Senate: 4/7/05, 49-0.

House Refused to Concur.

Senate Amended.

Passed Senate: 4/21/05, 49-0.

House Concurred.

Passed House: 4/21/05, 97-0.

Passed Legislature.

#### Brief Summary of Engrossed Bill

- Removes the requirement that judges impose mandatory minimum terms of confinement for juveniles who are tried as adults after having been discretionarily declined.

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#### HOUSE COMMITTEE ON JUVENILE JUSTICE & FAMILY LAW

**Majority Report:** Do pass. Signed by 5 members: Representatives Dickerson, Chair; Moeller, Vice Chair; McDonald, Ranking Minority Member; Lovick and Roberts.

**Minority Report:** Do not pass. Signed by 2 members: Representatives McCune, Assistant Ranking Minority Member; and Crouse.

**Staff:** Sonja Hallum (786-7092).

**Background:**

Generally, Juvenile Court exercises jurisdiction over criminal offenses committed by juveniles 17 years of age or younger. However, the adult court may exercise jurisdiction over an offender under the age of 18 in two circumstances. First, the court may hold a hearing and decline jurisdiction over the youth. Second, jurisdiction may be automatically transferred to adult court if the youth is 16 or 17 years old and the specific criteria for automatic transfer is met.

If the youth is convicted of the offense in adult court, he or she will be subject to the same penalties as an adult who is over the age of 18. The Sentencing Reform Act governs the sentencing of adults and juveniles prosecuted as adults. Offenders are sentenced based upon a grid which is calculated from the seriousness level given to the offense and the offender's prior criminal history. The sentencing grid contains a range of months of confinement from which the judge may choose a specific number of months as the sentence to be imposed on the defendant.

A judge may only impose a sentence outside the standard range if he or she finds aggravating or mitigating circumstances that are sufficient to support an exceptional sentence that is either above or below the standard range.

Some offenses carry a mandatory minimum sentence, meaning that the judge may not give a sentence below the period of confinement specified in the statute. These sentences cannot be reduced by factors that would be considered in a standard range sentence, such as exceptional sentences or earned early release. Mandatory minimum sentences apply to both adults and juveniles who are tried as adults.

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**Summary of Engrossed Bill:**

The adult mandatory minimum sentences will not apply when a juvenile is sent to adult court after a decline hearing has been held in juvenile court and the court determines the adult court is the appropriate court. Judges are permitted to sentence a juvenile who has been discretionarily declined to any sentence within the standard range for the offense, or to impose an exceptional sentence downward. The juvenile would also be eligible for the same opportunity for earned early release as any person sentenced for a standard range sentence.

The mandatory minimum sentences will continue to apply to cases that are automatically transferred to adult court. The sentencing change applies only to offenses committed on or after the effective date of the act.

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**Appropriation:** None.**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** The mandatory minimum sentence law was enacted to deal with adults, not juveniles. Twelve-year-old children are being tried as adults, and they could receive 20 years in prison as a minimum sentence. Though they should be held accountable, mitigating circumstances should be considered. The standard of proof is lower in a decline hearing, so it does not take as much to have a juvenile sent to adult court. If a juvenile does not have competent representation, he or she may end up being sent to adult court when it is not the best decision. It is important to give judges discretion in these kinds of cases. The bill doesn't change the law. It only allows judges to give a standard range sentence unless there are exceptional circumstances. It doesn't affect past sentences, only future sentences. This will only be used in a very few cases, one to two that come up every year.

**Testimony Against:** None.

**Persons Testifying:** Michelle Shaw, Washington Association of Criminal Defense Lawyers and Washington Defender's Association; Tom McBride, Washington Association of Prosecuting Attorneys; Ann Carey and Cedric Barquet, Governor's Juvenile Justice Advisory Committee; Ida Leggett, Sentencing Guidelines Commission; and Martha Harden Cesar, Superior Court Judges Association.

**Persons Signed In To Testify But Not Testifying:** None.